Interracial News Service

A DIGEST OF TRENDS AND DEVELOPMENTS IN HUMAN RELATIONS

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VOTING IN THE SOUTH

Great attention has been given in the press, on radio and levision, and by the public generally to the vital problems ealt with in *The Report of the United States Commission on ivil Rights, 1959* (Washington 25: Superintendent of Docuents, U. S. Government Printing Office, paper, $2.00).

This document, *The New York Times* reported on September has been called "shocking," "extreme," "indefensible," radical," "vicious," "unconstitutional," and "obnoxious" by outhern Senators. Northerners have described the report as heartening," "constructive," and "reasonable."

The last issue of the INS covered those sections of the *eport* dealing with "Public Education" and "Housing." This sue deals with "voting," which ". . . is the cornerstone of the epublic, and the key to all other civil rights."

What follows is a presentation of Part Two of *With Liberty nd Justice for All* an abridgment of the *Report* cited above. his abridgment is available in paper for 60 cents from the ource cited above. It is a valuable document for all interested n understanding the great public issue of our day.

ORIGIN AND SCOPE OF THE COMMISSION ON CIVIL RIGHTS

As a result of allegations made that "some American citizens ere being denied the right to vote, or otherwise deprived of ne equal protection of the laws, because of their race, color, eligion, or national origin" Congress provided in 1957 the rst civil rights bill since 1875, at the request of President isenhower, calling for the establishment of a Commission on ivil Rights as an independent agency within the executive ranch of the government. [The life of this Commission has ecently been extended by Congress for an additional two ears.]

As was stated in the previous issue of *Interracial News ervice,* the Commission was empowered only "to investigate, o study, to appraise, and to make findings and recommendtions." The Commission has no powers of enforcement and t has no connection with the Department of Justice. The ommission does have the usual powers of issuing subpenas and eeking court enforcement of them in connection with its actfinding procedures.

The Commission consists of three northerners and three outherners. On November 7, 1957 President Eisenhower ominated the following members: Stanley Reed, retired upreme Court Justice (chairman); John A. Hannah, Presilent, Michigan State University; John S. Battle, former Govrnor of Virginia [who resigned at the end of the two-year ssignment]; the Rev. Theodore M. Hesburgh, President of the Jniversity of Notre Dame; Robert G. Storey, Dean of the outhern Methodist University Law School; Assistant Secreary of Labor J. Ernest Wilkins.

Mr. Justice Reed resigned on December 2, 1957 and Dr. Hannah was made chairman of the committee. Doyle E. Carlton, former Governor of Florida was added as the sixth nember.

The nominations were approved by the Senate on March 4, 1958, and on May 14, 1958 Gordon M. Tiffany, former Attorney General of New Hampshire was approved as Staff Director. Thus only 16 months out of the two years provided n the original legislation remained "to conduct and report the nvestigations, studies, and appraisals prescribed by Congress."

J. Ernest Wilkins, Assistant Secretary of Labor and a member of the Commission died on January 19, 1959 and George M. Johnson, former Dean of the Howard University Law School replaced him, April 21, 1959. Dean Johnson had been the Commission's director of the Office of Laws, Plans and Research.

VOTING, THE HISTORICAL DIMENSION

"The history of democracy in the United States is essentially the story of a great ideal of the dignity and rights of every human being, a cautious constitutional beginning of self-government, and then a long, still unfinished growth toward realization of the ideal. No feature of that growth has been more significant than the evolution which has occurred in the American conception of voting. The new nation began with a prevailing attitude that the right to vote should be limited to a few who prove themselves *qualified,* usually by ownership of property. Gradually the nation shifted to the modern concept that voting is a right which belongs to every citizen except the few who are specifically *disqualified* by the qualification requirements of their states."

Although the principle of equality was recognized in 1776 in the *Declaration of Independence* and embodied at least in spirit in the *Constitution,* the Fourteenth and Fifteenth Amendments gave explicit definitions of what it means to be a citizen of the United States. The Fourteenth Amendment made the freed Negroes citizens of the United States and of the states where they lived and promised them equal protection of the laws. The Fifteenth Amendment provided that the right to vote should not be denied or abridged on account of race, color, or previous condition of servitude.

The power of these Amendments was reduced greatly by the Supreme Court which in 1883 declared Sections of the civil rights bill enacted by Congress in 1875 unconstitutional. This bill was based upon Constitutional Amendments which gave Congress the power to enforce the provisions by appropriate legislation. Another blow against extending civil rights in the United States came when the Court approved the doctrine of "separate but equal" (*Plessy v. Ferguson*).

The narrow interpretation of the Fourteenth and Fifteenth Amendments permitted the States to enact legislation making these Amendments inoperative in their borders by holding that "Congress could enact only corrective and remedial, not positive and general legislation."

"Between 1889 and 1908, the former Confederate States passed laws or amended their constitutions to erect new barriers around the ballot box. The most popular," the *Report* states, were: "(1) the poll tax; (2) the literacy test; (3) the 'grandfather clause' . . . . Other measures included stricter residence requirements, new criminal disqualifications, and property qualifications as an alternative to the literacy test."

Many of these barriers were abandoned because they disenfranchised whites. Others were declared unconstitutional.

Another device designed to exclude Negroes from voting in the South was the "white primary" which came about with the advent of the direct primary and the emergence of the South as a one-party region in which the Democratic nomination is almost tantamount to election. The process was simple and is

well-known: "require the primary voter to be a party member, then bar Negroes from membership in the Democratic Party."

After a series of Supreme Court cases beginning with *Nixon v. Herndon* (1927) and ending with *Terry v. Adams* (1953) the "white primary" barrier was struck down.

The so-called "Boswell amendment" to the State constitution of Alabama allowing members of boards of registrars broad discretion to pick and choose among would-be voters on the basis of "good character", or whether they could "read and write, understand and explain any article of the constitution of the United States," and whether they understood "the duties and obligations of good citizenship . . ." was struck down in 1949 by a Federal district court. "The court held that the standards offered no guide to registration officials, and that there was no objective or uniform test to determine whether a person could or could not understand the Constitution. The Supreme Court refused to overrule this decision."

STATISTICS ON NEGRO VOTING

The Commission in carrying out its duty "to study and collect information" collected all available statistical information on voting. "These statistics though containing many serious gaps, are informative."

The Commission on Civil Rights found that in Northern and Western states "problems of discriminatory denials of the right to vote . . . are relatively minor, both statistically and as a matter of law."

"In the South," the report continues, ". . . Negro registration has climbed from 595,000 in 1947 to over 1 million in 1952, to 1.2 million in 1956." This represents only about 25 percent of the nearly 5 million Negroes of voting age in the region in 1950. About 60 percent of the voting age Southern whites are registered.

The following statistical table, adapted from those in the abridged report, provides interesting data on Negro voting in all Southern states except Tennessee where no records are kept.

TABLE I — REGISTRATION STATISTICS IN THE SOUTH

State	Voting Age Population — 1950	% Total Voting Age Population	Voters 1958	% All Registered Voters 1958	Negroes Registered 1958 as % of Total 1950 Voting-Age Negroes
Ark.					
White	880,675		499,955		
Negro	227,691	20.5%	64,023	11.4%	28.1%
Fla.					
White	1,458,716		1,448,643		
Negro	366,797	20.1%	144,810	9.1%	39.5%
Ga.					
White	1,554,784		1,130,515		
Negro	623,458	28.6%	161,082	12.5%	25.8%
La.					
White	1,105,861		828,626		
Negro	481,284	30.3%	132,506	13.8%	27.5%
N. C.					
White	1,761,330		1,389,831		
Negro	549,751	23.8%	157,991	10.2%	28.7%
S. C.					
White	760,763		479,711		
Negro	390,024	33.9%	57,978	10.8%	14.9%
Va.					
White	1,606,669		864,863		
Negro	429,799	21.1%	93,479	9.8%	21.7%
Ala.*					
White	1,231,514		828,946		
Negro	516,245	29.5%	73,272	8.1%	14.2%
Miss.*					
White	710,709		(a)		
Negro	497,354	41.0%	22,000(b)	—	38.9%(b)
Tex.*					
White	4,154,790		1,489,841(c)		
Negro	582,944	12.3%	226,495(d)	13.5%	38.8%

*Unofficial figures (a) 1954 figures unavailable (b) 1954 (c) 1956 (d) 1958

In the nine Southern states listed below in Table II (excluding Texas in which the Negroes do not have a majority of the 1950 voting age population in any of its 254 counties) the tendency has been to completely exclude from registration, or to register only a small proportion of Negroes eligible, when the Negroes had a majority of the 1950 voting-age population in a given county. This was true, the Commission found, in Arkansas in 6 counties; in Florida in 1; in Georgia in 29; in Louisiana in 8 parishes; in North Carolina in 6 counties; in South Carolina in 15; in Virginia in 8; in Alabama in 12 and in Mississippi in 26.

Most of the counties where Negro voting age population is high and registration figures low are classified as rural.

Negroes are registered in relatively large numbers and high proportion in large Southern cities such as Atlanta (Fulton County, 28,414 or 29 percent of 1950 voting-age population), Miami (Dade County 20,785 or 49 percent), and New Orleans (Orleans Parish, 31,563 or 28 percent).

Negroes are generally registered in fairly high proportions where they constitute a low percentage of the population.

TABLE II — NEGRO REGISTRATION BY COUNTIES**

State	Number of Counties	No Negroes Registered	Less Than 5%	5%-25%	25.1%-50%	More Than 50%
Ark.	75	14	1	28	28	4
Fla.	67	3	3	12	30	19
Ga.	159	6	22	53	50	28
La.	64	4	9	18	14	19
N. C. (a)	100	0	3	29	18	29
S. C.	47	1	6	40	0	0
Va.	100	3	1	67	27	2
Ala.*	67	2	12	34	9	10
Miss.*	82	14	49	17	2	0
Tex.*	254	14	1	59	134	46

**The percentage of Negroes registered in 1958 based on 1950 voting-age population figures.

(a) 21 counties containing 111,475 voting-age Negroes in 1950 did not report.

*Unofficial figures.

The Civil Rights Commission gives two explanations for the low percentage of Negro registration in the South. The first is apathy on the part of Negroes which "may stem from lack of economic, educational, or other opportunities, but it does not constitute a denial of the right to vote."

Apathy, however, is only part of the answer. The statistical data gathered by the Commission indicates that in 16 counties where Negroes constituted a majority of the voting-age population in 1950 no Negro was registered at last report.

In 49 other counties where Negroes were in the majority fewer than 5 percent of the voting-age Negroes were registered.

The Commission generalizing about the Negroes' registration problems in Southern states says: "In the six States with officially released racial registration statistics—Arkansas, Florida, Georgia, Louisiana, South Carolina, and Virginia—nonwhites were a majority of the population in 97 counties. Of these counties, 75 had fewer than the State's average proportion of Negroes registered. Of the 31 nonwhite-majority counties in Mississippi, 27 were below the State's average of Negroes registered according to the unofficial statistics. All of the 14 nonwhite-majority counties in Alabama were reportedly below the State's average."

Statistics alone were not enough, however, and the Commission set out to get authentic documentation of the allegations that Negroes are being denied their right to vote. After receipt of the first complaint on August 14, 1958 the Commission conducted on-the-spot investigations involving hearings held on sworn complaints .

DENIALS OF THE RIGHT TO VOTE

During the period August 1958 and August 1959 voting complaints were received from 29 counties in 8 states. Full investigations of all these complaints were decided upon by the Commission. The number of complaints coming to the Commission were few in number and these were slow in coming. Among the reasons for this was "the fear of bodily harm and loss of jobs . . ." The "typical county in which Negroes are disenfranchised is a rural county in the old plantation belt where large landholdings and farming are the major way of life, where there is little or no industry, farm tenancy is high, years of educational achievement low, and per capita income low. The percentage of Negroes in the population is high, 50 percent or more."

FLORIDA

The first sworn complaint asserted that Negroes in Gadsden County, Fla. particularly "ministers and teachers" had "great fear" and some had been "warned against voting." In this

county less than 5 per cent of the voting-age Negroes were registered—the figures indicating that only 7 Negroes were registered in 1958 although 10,930 adult Negroes lived there in 1950. There was a significant increase in registered Negroes in Gadsden County, which went from 32 in 1946 to 140 in 1950. In 1952 it dropped to 6.

An investigation on the spot indicated that the individuals responsible for the registration drive in 1948-1950 "are no longer in Gadsden County. One of the leaders, who was fired from a good job and allegedly threatened with physical violence, left the State."

Staff interviews revealed the following: "There are about 300 Negro teachers in the county, many of whom have expressed a desire to vote, but virtually none of whom is registered. They are unwilling to attempt to register because of the fear of losing jobs or of other economic reprisals." An example of what is considered economic reprisal is the case of a Negro minister who was "allegedly denied a $100 dollar loan at a bank despite the fact that he had a highly solvent cosigner. He had previously said from the pulpit that Negroes should register and vote."

MISSISSIPPI

In Mississippi Negroes comprise about 45 percent of the population but only 4 percent of the 1950 voting-age Negroes were registered to vote in 1954. There were in 1955, 14 Mississippi counties with a total 1950 population of 230,000, of whom 109,000 were Negroes, where not a single Negro was registered.

Complaints were received by the Civil Rights Commission from 8 counties "which demonstrated the need for the full facts on voting throughout the State."

In Bolivar County, Negroes were required to write a section of the constituiton of Mississippi and a "reasonable interpretation" of that section. Uniformly all were advised "Your replies won't do," and they were refused registration.

In Tallahatchie County, the sheriff's office refused to accept poll taxes from Negroes. A public school principal in Charleston was discharged after attempting to register and became a farmer.

In Leflore County an Army veteran discharged as a technical sergeant went to the courthouse and said "I want to register." The female clerk asked "To register for the Army?" Upon answering he wanted to register to vote she said that she did not have time because the court was meeting. She asked him to write his name and address on a slip of paper and in less than a half an hour after his returning home two white men came to his door and asked him why he had tried to register. He said that it was his duty. "They told him that he was just trying to stir up trouble and advised him not to go back". He tried again and the clerk told him she was busy. Fearful of reprisals, he stopped trying.

In Forrest County one witness tried to register 16 times—twice a year for 8 years and was simply told he could not register and that there was no reason for refusal.

"Another witness, a minister with two degrees from Columbia University, and a former registered voter in Lauderdale County, Miss. (1952-57) and in New York City (1945-1948) attempted twice to register in Forrest County." The second time the witness admitted he was a member of the N.A.A.C.P. "The clerk hinted that this was a communistic organization and said that the witness was 'probably one of them.' " "That means you are not going to register me," said the witness. "You are correct," replied the clerk.

TENNESSEE

In Tennessee a study was made by the Southern Regional Council in 1957 and it reported "that in only three counties in west Tennessee—Haywood, Fayette, and Hardeman—does intimidation pose a serious threat to Negro registration and that in most of the State Negroes can register freely."

In Fayette County, for example, the example of 12 Negro war veterans who registered in the fall of 1958 discouraged Negroes in Haywood County.

Of the 12 Negroes registered only 1 voted because of the intimidation that they were subjected to. The Negro that did vote doubts that his vote was counted since he handed it to someone rather than dropping it in the box. Two of the veterans who had tried to vote "were said to have been frightened away when two sheriff's deputies approached them." One was warned off by his banker. "One of the 12 who was in the hauling business lost all of his customers and the police threatened to arrest any of his drivers found on the highway in his trucks."

"According to men interviewed, when a Negro registers the sheriff is quickly informed and he, in turn, informs the Negro's landlord and employer. Those who register are soon discharged from their positions and ordered to move from their homes. The police arrest them and impose severe fines—as much as $65 on minor charges, it was alleged. They are unable to get credit. Their wages are garnisheed. Applications for GI loans to buy land are turned down by local lenders."

NORTH CAROLINA

In North Carolina the Civil Rights Commission determined that "varying practices in administering the state's literacy requirements" involving the ability to read and write any section of the Constitution to the satisfaction of the registrar was the problem facing Negro aspirants to vote. The Southern Regional Council in a study reported that "Negroes may find it almost impossible to qualify in one county and comparatively easy in the next." Much depends on the registrar's "sense of justice."

GEORGIA

Although no sworn complaints were received by the Commission from Georgia, the Commission's Georgia State Advisory Committee while noting that "in few counties, the Negro votes with the same ease and freedom as the white citizen" reported that it "had access to reports on conditions in 15 or 20 counties where undoubtedly the Negro wishing to vote has met difficulties." Negroes, the Georgia State Advisory Committee reported, faced discrimination in many forms. These included a law passed by the 1958 session of the General Assembly which "poses 30 questions to the 'illiterate voter,' 20 of which must be answered correctly. Considerable discretion remains with the registrar in deciding who should have to answer questions and whether the answers are correct. . . ."

It is also reported that laws "purging the name of voters who have failed to vote in the past two years are being applied throughout the State now. Those who fail to vote must seek reinstatement or must go through the entire registration procedure afresh. Here again there is room for the practice of local discrimination."

ALABAMA

Perhaps the most extensive and complicated investigations were held in Alabama where complaints were received from 14 Negro residents of Tuskegee in Macon County. The complaints included "teachers, housewives, students, farmers, and U. S. Civil Service employes at the Veterans' Administration hospital near Tuskegee." The affidavits were included in a letter from William P. Mitchell of Tuskegee, secretary of the Tuskegee Civic Association and chairman of its Voter Franchise Committee. Mr. Mitchell, though a Negro, was not among the complainants because he was able to vote after a three year effort involving "three visits to the Macon County Board of Registrars, two appearances before a Federal Trial Court, two appeals to the Fifth Circuit Court, and one petition to the Supreme Court of the United States."

Agents of the Commission informed the Attorney General of Alabama and the Democratic nominee for Governor of Alabama and the nominee for Attorney General that an investigation of the complaints had begun.

In Tuskegee the Commission made arrangements with the Macon County Board of Registrars for an examination of the County's voter registration records on October 20, 1958. When the Commission arrived the Registrar chairman informed them that by order of the Attorney General, the Commission on Civil Rights would be denied access to the records. A hearing on the Alabama complaints was voted by the Commission to take place in Montgomery on December 8, 1958.

In the meantime complaints were received from Negroes in six Alabama counties. These complaints eventually totalled 97.

Shortly afterward the State of Alabama through the Alabama Third Circuit Judge impounded the voter registration records of Barbour County where a complaint had originated. Shortly

after it was announced that the Commission would hold hearings in Montgomery, complainants and other Negroes began to receive certificates that they had been registered. But Judge Wallace of the Third Circuit Court impounded the voter registration records of Bullock County and told the press "they are not going to get the records. And if any agent of the Civil Rights Commission comes down here to get them, they will be locked up."

At the hearings in Montgomery, beginning on December 8, 1958 before a crowded courtroom, William P. Mitchell of Macon County told the Commission that "in 1950 Macon County had a population of 30,561. Of these, 4,777 were white persons and 25,784 were nonwhite. But the 1958 voter registration list . . . showed 3,102 white voters and only 1,218 Negro voters. Macon County rates first in the State in the proportion of its Negroes aged 25 or over who have at least a high school education, and in the percentage of Negro residents who hold college degrees."

"Not content to hold the line against the new Negro voters, the city of Tuskekee recently moved to decrease the number already voting in its elections. On July 15, 1957, the Alabama Legislature passed an act that gerrymandered the boundaries of the city. The city limits, previously forming a rectangle, now became a figure of 28 sides. The new boundaries excluded all but 10 of the 420 Negroes who formerly voted in city elections. Another measure enacted later authorized a similar gerrymander or even total abolition of Macon County itself."

Other attempts to keep Negro registration at a minimum were summarized by Mr. Mitchell as "(1) The board's refusal to register Negroes in larger quarters; (2) Its failure to use the room which is assigned for the registration of Negroes to the fullest extent; (3) The board's requirement that only two Negroes can make applications simultaneously; (4) Its policy of registering whites and Negroes in separate rooms and in separate parts of the Macon County courthouse; (5) Its policy of permitting a Negro to vouch for only two applicants per year; (6) Its requirement that Negro applicants must read and copy long articles of the U. S. Constitution; (7) Its failure to take applications from Negroes on several regular registration days; (8) Its failure to issue certificates of registration to Negroes immediately upon proper completion of the application form. . . ."

Additional testimony was placed on record from other counties by other complainants at the hearings. In all some 33 Negroes testified that they had not been allowed to register. Ten of these were college graduates, 6 of whom held doctorate degrees. "Only 7 of the 33," it is reported, "had not completed high school; all were literate. Most of them were property owners and taxpayers. Some had voted in other States. Among them were war veterans, including two who had been decorated, respectively, with four or five Bronze battle stars."

A farmer of 6 years of schooling stated most memorably the reason why he had not been permitted to register: "Well, I have never been arrested and always has been a law-abiding citizen; to the best of my opinion has no mental deficiency, and my mind couldn't fall on nothing but only, since I come up to these other requirements, that I was just a Negro. That's all."

A sampling of reasons why Negroes wanted to vote indicated that Negroes offered a very convincing argument concerning the right. The Rev. Kenneth L. Buford, a homeowner and holder of two college degrees said: "I would like to vote because it is a right that should be accorded me as a citizen of the United States. I feel that I cannot be a good citizen unless I do have the right to vote. I am a taxpayer and I feel that if I am denied the right to vote it represents taxation without representation."

Charles E. Miller, a veteran of the Korean war who lives in Tuskegee said: ". . . I have dodged bombs and almost gotten killed, and then came back and being denied the right to vote — I don't like it. I want to vote and I want to take part in this type of government. I have taken part in it when I was in the service. I think I should take part in it when I am a civilian."

In the afternoon the Macon County probate Judge William Varner appeared with subpenaed voting records of Montgomery in spite of a letter from the Attorney General of Alabama advising him he had no right to remove the voting records from Macon County.

Mr. Patterson then Attorney General [now governor of Alabama] raised "serious constitutional objections" to a constitutional judicial officer removing records from his office outside of his county. He added: "We feel that in addition to that, this Commission, which is the Civil Rights Commission, which is an arm of the legislative (sic) branch of the Government, has no constitutional right to call an officer in here and question him about the affairs of his court, and we want to raise that objection at this time."

Many of the subpenaed State officers, after a consultation with the Attorney General, refused to be sworn and those that testified were not very informative. None appeared with their records which had been impounded by the State court by subpenas received, in three or four cases, after the Commission subpenas.

At the close of the hearings for the day Commissioner Battle, a former Governor of Virginia, read a statement which said in part: ". . . none of you white citizens and officials of Alabama believe more strongly than I do in the segregation of the races as the right and proper way of life in the South. . . .

"It is from this background . . . that I am constrained to say, in all friendliness, that I fear the officials of Alabama and certain of its counties have made an error in doing that which appears to be an attempt to cover up their actions in relation to the exercise of the ballot by some people who may be entitled thereto . . . .

"Of course it is not up to me, nor would I presume to suggest how any counsel or any official should govern himself; but we are adjourning this hearing until tomorrow morning. . . . Will you kindly reevaluate the situation and see if there is not some way you . . . may cooperate a little bit more fully with this Commission and not have it said by our enemies in Congress that the people of Alabama were not willing to explain their conduct when requested to do so?"

Although segments of the press supported Gov. Battle's reasoning, Attorney General Patterson denied that Alabama "has anything to hide." He said: ". . . all citizens both black and white have been treated fairly, justly and impartially . . . . Our duty in this case is clear: We must do everything within our power to prevent this unlawful invasion of the State of Alabama's judicial officers by the legislative and executive arms of the Federal Government, the Civil Rights Commission in this instance . . . . In fights of this nature there can be no surrender of principle to expediency. The time for retreating has come to an end."

The Commission turned over the record of the proceedings to the Attorney General of the U. S. who filed suit seeking a court order requiring the defendants to produce evidence (the records) and give testimony before the Commission. A U. S. District Court Judge commanded the contumacious witnesses "to appear and testify, and produce the records called for, before the Commission or a subcommittee on January 9, 1959. A subsequent order specified that the Commission has the 'right' to inspect the records of Barbour, Bullock and Macon Counties."

An inspection of the records revealed the following information which is part of a larger whole:

Macon County — "An applicant was rejected because she had listed the county of her birth but not the State . . .

"One rejected application had no errors, but the applicant neglected to write in her name for the fourth time in question No. 3 . . ."

"In one set of applications examined, 51 Negroes had been required to copy article 2 of the U. S. Constitution, but only three white applicants were required to copy this same lengthy article . . .

"In a group of 17 applications marked 'approved' were errors of the same type that had caused rejection of other applications. Sixteen of these 17 applicants were found to have been registered, and of these, 15 were white persons."

Barbour County — An examination of the records indicated that 607 white and 15 Negro applicants were registered between July 1956 and April 1958. An examination of 115 questionnaires (19 Negro, 96 white) showed that white persons were registered in spite of some strange answers. "One accepted

white person had answered question No. 19 ('Will you give aid and comfort to the enemies of the U. S. Government or the government of Alabama?') with a reply as murky as the question: 'No unless necessary.' "

Bullock County — The Bullock County records were described as being in "confusing disorder." The five-year old official voting list showed only five registered Negroes in the County and the board of registrars had been inoperative since mid-1957.

"The applications of 19 white registered electors contained one or more errors. However, each of the 19 was allowed to complete another questionnaire 'for the record' which was attached to the first application." No Negro was given this 'second chance." "None of the forms examined had any copied constitutional provision attached as required by Alabama law."

A "voucher system" was found to be the "principal Bullock County device for denying Negroes the right to vote." "A voucher, white or Negro, is permitted to vouch for only three applicants in any 3-year period. . . . The card of one of the five Negro registrants showed that he had vouched for three Negro applicants, none of whom was registered. But the Negro voter could not again vouch for an applicant for another 3 years."

"Under the Bullock County system," the Commission report shows, "the rejection of three applicants supported by each of the five qualified Negro voters in the county effectively prohibited for three years any application by the remaining 5,420 adult Negroes in the county."

The Commission "unanimously adopted detailed official findings of fact specifying and confirming the denial of the right to vote in Alabama."

LOUISIANA

There was, according to the Civil Rights Commission, "a continuing stream of affidavits alleging denial of the right to vote . . . from Negro citizens of Louisiana. The complainants alleged either that they had been denied the right to register in the first place, or that, having been registered, their names were removed from the roles and that they were not allowed to register again."

In Louisiana the trend of Negro registration was heavily downward. In 46 of the 64 parishes in the State, the number of Negroes registered had declined since 1956 "in some cases by dramatic proportions . . . . In only 14 parishes had Negro registration increased; in each case the increases were relatively slight."

As in the Alabama case, a legal battle took place when the Commission attempted to examine the registration records in certain parishes. The hearings originally scheduled for Shreveport on July 13, 1959 were never held due to a restraining order issued by U. S. District Judge Benjamin Dawkins.

The complaining witnesses had prepared to offer at the Shreveport hearings, in addition to the Commission's own evidence, three major techniques of voting denial in Louisiana.

1) ". . . An effective bar to Negro registration is the requirement exacted by the registrars that each prospective registrant obtain two registered voters to swear to his identity. Since no Negroes were registered in . . . [some parishes], and since no white person (with one exception) would vouch for a prospective Negro registrant, the complainants were effectively stalled. . . ."

2) "In the parishes surrounding and including Shreveport several of the witnesses had been excluded from registration by preliminary questioning on the part of the registrars before even receiving a registration form." In other parishes in this area, complainants were stricken from registration lists after having been registered for some years. "Upon attempting to reregister they were met with the rigid standards arbitrarily imposed as a result of the campaign initiated by the Joint Legislative Committee of the Louisiana Legislature . . . . The announced purpose of the chairman . . . of the committee was to reduce Negro registration in the State of Louisiana from 130,000 to 13,000."

In a series of meetings held throughout Louisiana in the period December 1958-February 1959 registrars were instructed "in the procedures of a strict interpretation of the Louisiana registration laws." Mr. William Shaw, an agent of the Joint Legislative Committee, "documented his instructions by reference to statutes, legal opinions, and particularly the booklet, 'Voter Qualification Laws in Louisiana'."

Mr. Shaw advised the registrars to use a set of 24 model cards to determine whether applicants for registration are able to "interpret any clause of the Constitutions of Louisiana or the United States." "Mr. Shaw asserted," the Civil Rights Commission reports, "that constitutional interpretations are tests of native intelligence and not of book learning; that experience teaches that most white people have this native intelligence while most Negroes do not. As a further precaution, however, he instructed the registrars not to help any Negro applicant fill out his application card by telling him the number of his ward or precinct."

The booklet which Mr. Shaw referred to, "Voter Qualification Laws in Louisiana" is subtitled "The Key to Victory in the Segregation Struggle." It begins "The Communists and the NAACP plan to register and vote every colored person of age in the South." The purpose for registering Negroes is to use their votes "to set up a federal dictatorship in the United States." The foreword concludes by saying "We are in a life and death struggle with the Communists and the NAACP to maintain segregation and to preserve the liberty of our people."

3) In Washington Parish during May, June and July 1959 over 1,300 of approximately 1,500 Negro registrants "were stricken from the rolls on the basis of challenges filed by members of the Citizens Council of that parish. Virtually all of the Negroes whose names were removed from the rolls had been challenged by four white residents of Washington Parish. The most common basis for these challenges was alleged errors in spelling on the application forms. Investigation revealed that the challengers themselves misspelled words when filling out the challenging affidavits." One Negro who was registered was challenged on the grounds of, in the words of the Registrar of Voters an "error in spilling."

FEDERAL PROTECTION OF THE RIGHT TO VOTE

The Commission on Civil Rights in its report states that since 1894 authority over voting has been divided between Federal and State governments. The State has the unquestioned right to determine the qualifications its citizens must have in order to vote, but under the equal protection clause of the Fourteenth Amendment, any voting qualification established by a State must be applied equally to all persons. "The States are specifically forbidden by the Fifteenth and Nineteenth Amendments to require that a voter be white or male." The Federal Government can enforce these constitutional provisions in any election involving choice of Federal officers in *any* election, city, state or Federal. It can protect the right to vote against interference by private citizens.

In fact, however, the Department of Justice has encountered serious difficulties in obtaining convictions of those who deprive others of civil rights. Even with the passing of an act in 1957 which allowed "the United States through its Attorney General, to institute a civil action against infringement or threatened infringement of an individual's right to vote . . . the record of the Department of Justice's Civil Rights Division under the Civil Rights Act of 1957 is hardly more encouraging than it was before." In nearly 2 years the Department of Justice has only brought three actions to secure preventive relief rather than criminal conviction, against any interference with the right to vote. One action was dismissed on grounds that relevant sections of the Civil Rights act of 1957 were, in the opinion of the Federal district judge, unconstitutional. The second suit was brought against two registrars in Macon County, Ala. and it was dismissed because the registrars had resigned, leaving no party defendant. The third case is not yet decided.

Mr. Ryan, of the Civil Rights Commission has stated that the Department of Justice's experience in the administration of the Civil Rights Act of 1957 "has demonstrated the need for its implementation by a law giving access to registration records and requiring their retention."

The history of voting in the United States and the experience of the Commission has confirmed "that where there is a will and opportunity to discriminate against certain potential voters, ways to discriminate will be found. The burden of litigation

involved in acting against each new evasion of the Constitution, county by county, and registrar by registrar, would be immense. Nor is there any presently available effective remedy for a situation where the registrars simply resign . . . ."

"Against the prejudice of registrars and jurors, the U. S. Government appears under present law, to be helpless to make good the guarantee of the U. S. Constitution."

FINDINGS AND RECOMMENDATIONS

The Civil Rights Commission on the basis of investigation and study made a series of findings and recommendations.

I REGISTRATION AND VOTING STATISTICS

The *first finding* was that "there is a general lack of reliable information on voting according to race, color or national origin" and this lack of information presents problems for Commissions undertaking investigations on voting. It is *recommended* that "the Bureau of the Census be authorized and directed to undertake, in connection with the census of 1960 or at the earliest possible time thereafter, a nationwide and territorial compilation of registration and voting statistics which shall include a count of individuals by race, color, and national origin, who are registered, and a determination of the extent to which such individuals have voted since the prior decennial census." [Since the 1960 decennial forms were 'frozen' in December, 1958 and are being printed, the Commission "urges the Congress to consider the feasibility of a supplementary census for the collection of these urgently-needed voting statistics."]

II AVAILABILITY OF VOTING RECORDS

On the basis of the Alabama and Louisiana experiences the Commission *finds* "that lack of uniform provision for the preservation and public inspection of all records pertaining to registration and voting hampers and impedes investigation of alleged denials of the right to vote by reason of race, color, religion, or national origin." The Commission *recommends* "that the Congress require that all State and Territorial registration and voting records shall be public records and must be preserved for a period of 5 years, during which time they shall be subject to public inspection, provided that all care be taken to preserve the secrecy of the ballot."

III EVASION OF REGISTRATION RESPONSIBILITIES

"The Commission *finds* that the lack of an affirmative duty to constitute boards of registrars, or failure to discharge or enforce such duty under State law, and the failure of such boards to function on particular occasion or for long periods of time, or to restrict periods of function to such limited periods of time as to make it impossible for most citizens to register, are devices by which the right to vote is denied to citizens of the United States by reason of their race or color. It further *finds* that such failure to act is arbitrary, capricious, and without legal cause or justification." *Recommendation No. 3* suggests that part IV of the Civil Rights Act of 1957 (U.S.C. 1971) should be amended by inserting a paragraph [text not quoted] which will remedy the injustices mentioned in the findings.

IV REFUSAL OF WITNESSES TO TESTIFY

The Commission *finds* that the necessity for it to request the Attorney General to compel the production of registration records at a hearing results in divided authority and is "a needlessly cumbersome procedure. It is not a sound system of administration."

It is *recommended* "that in cases of contumacy or refusal to obey a subpena issued by the Commission on Civil Rights . . . for the attendance and testimony of witnesses or the production of written or other matter, the Commission should be empowered to apply directly to the appropriate U. S. district court for an order enforcing such subpena."

V APPOINTMENT OF TEMPORARY FEDERAL REGISTRARS

This recommendation is regarded as the most significant of all those made by the Commission and the most controversial.

"The Commission *finds* that substantial numbers of citizens qualified to vote under State registration and election laws are being denied the right to register, and thus the right to vote, by reason of their race or color. It finds that the existing remedies under the Civil Rights Act of 1957 are insufficient to secure and protect the right to vote of such citizens. . . .

"Therefore, the Commission *recommends* that, upon receipt by the President of the United States of sworn affidavits by nine or more individuals from any district, county, parish, or other political subdivision of a State, alleging that the affiants have unsuccessfully attempted to register with the duly constituted State registration office, and that the affiants believe themselves qualified under State law to be electors, but have been denied the right to register because of race, color, religion, or national origin, the President shall refer such affidavits to the Commission on Civil Rights. . . .

"A. The Commission shall: (1) Investigate the validity of the allegations; (2) Dismiss such affidavits as prove, on investigation, to be unfounded; (3) Certify any and all well-founded affidavits to the President and to such temporary registrar as he may designate.

"B. The President upon such certification shall designate an existing Federal officer or employee in the area from which complaints are received, to act as a temporary registrar.

"C. Such registrar-designate shall administer the State qualification laws and issue to all individuals found qualified, registration certificates which shall entitle them to vote for any candidate for the Federal offices . . . in any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

"D. The registrar-designate shall certify to the responsible State registration officials the names and fact of registration of all persons registered by him. Such certification shall permit all such registrants to participate in Federal elections. . . .

"E. Jurisdiction shall be retained until such time as the President determines that the presence of the appointed registrar is no longer necessary."

A CONSTITUTIONAL AMENDMENT TO ESTABLISH UNIVERSAL SUFFRAGE

Chairman Hannah and Commissioners Hesburgh and Johnson proposed an amendment mentioned above. They felt that Recommendations as described above "should, if enacted by Congress, secure the right to vote to the forthcoming national elections for many qualified citizens . . ." now denied that right. They felt, however, that Recommendation 5 was "clearly a stopgap."

"Therefore," the Commissioners argue, "as the best ultimate solution of the problem of securing and protecting the right to vote, we propose a constitutional amendment to establish a free and universal franchise throughout the United States."

A twenty-third Amendment to the Constitution of the United States was proposed.

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